

# MOWER COUNTY BOARD OF ADJUSTMENT

## Minutes of the Mower County Board of Adjustment

Members Present: Gary Braaten, Don Olson, Joan Roe

Members Absent: Bill Milbrath.

Others Present: Citizens, Daryl W. Franklin, Bill Buckley.

The regular meeting of the Mower County Board of Adjustment was called to order by Chair Don Olson on Wednesday, August 28, 1996, at 2:45 p.m. in the County Office's, Mower County Office Building, 1105-1/2 NE 8th Avenue, Austin, Minnesota. Minutes of the July 31, 1996, meeting were approved as mailed on a motion by Joan Roe, seconded by Gary Braaten. The motion passed unanimously.

**Variance #306 - Everett Dennis** Reference was made to the onsite inspection to the Dennis property in Section 32, Dexter Township. The variance was for an additional non-farm dwelling and the separation distance from a feedlot. Everett Dennis, a relative of the petitioner was present to discuss the situation. June and Tim Bernatz were present, feedlot operators to the north and east of the location. The Board of Adjustment discussed the petition. After some discussion, a motion was made by Gary Braaten and seconded by Joan Roe to approve the variance because (1) the variance is in harmony with the spirit and intent of the Ordinance because additional building sites are not being created. They are simply using an existing building site and separating it off from the farm; (2) the variance is consistent with the Comprehensive Plan because we are maintaining the economic viability of the County; (3) practical difficulties are present since this is an existing building site and it is not practical to make it individual to purchase the entire area the building site on with the following conditions:

1. That a compliance inspection be conducted by a licensed Designer I Inspector, on the existing sewage treatment system. If the sewer system is found to be failing or not in accordance with the Mower County Individual Sewage Treatment Ordinance, the system will have to be upgraded or replaced to MPCA 7080 standards within 12 months.
2. There will be no additional building on the remaining land without making an application for and receiving a variance.

The motion passed unanimously.

**Variance # 307 - Dave Morse** References made to the onsite visit to the Morse property, in Section 12, Austin Township. The variance was to split off a 3 1/2 acre parcel in the NE part of the parcel which contains two individual dwelling units. Mr. Morse was present and presented information. After some discussion, a motion was made by Joan Roe and seconded by Gary Braaten to approve the variance with the following conditions: (1) The variance is in harmony with the spirit and intent of the Ordinance because additional building sites are not

being created. They are simply using an existing building site and separating it off from the farm. (2) The variance is consistent with the Comprehensive Plan because we are maintaining the economic viability of the County. (3) Practical difficulties exist because it is not practical to make the individual purchase the entire area with the building site on, with the following conditions:

- a. That a compliance inspection be conducted by a licensed Designer I Inspector, on any sewage treatment system. If the sewer system is found to be failing the Mower County Individual Sewage Treatment Ordinance, the system will have to be upgraded or replaced by MPCA 7080 standards within 12 months.
- b. There will be no additional building on the remaining land without making an application and receiving a variance.

The motion passed unanimously.

**Variance #308 - Dennis Seberson** Section 15, Lansing Township. The variance was to sell off existing farmstead from an 80 acre parcel. Petitioner wants to divide farm between building site and farm land. Reference was made to the onsite visit to view the situation. After some discussion, a motion was made by Gary Braaten and seconded by Joan Roe to approve the variance because (1) the variance is in harmony with the spirit and intent of the Ordinance because additional building sites are not being created. They are simply using an existing building site and separating it off from the farm; (2) the variance is consistent with the Comprehensive Plan because we are maintaining the economic viability of the County; (3) practical difficulties are present since this is an existing building site and it is not practical to make it individual to purchase the entire area the building site on with the following conditions:

1. That a compliance inspection be conducted by a licensed Designer I Inspector, on the existing sewage treatment system. If the sewer system is found to be failing or not in accordance with the Mower County Individual Sewage Treatment Ordinance, the system will have to be upgraded or replaced to MPCA 7080 standards within 12 months.
2. There will be no additional building on the remaining land without making an application for and receiving a variance.

It was passed unanimously.

**Variance #309 - David Thorpe** Section 11, Lansing Township. Discussion was made and staff report was presented. The variance would allow an addition to be constructed five (5) feet from the north property line for Mr. Thorpe, and 34 feet from the road right-of-way. Reference was made to the onsite visit. Richard Sayles, the property owner to the north, was concerned at how close they were coming to the property line with building and what impact it may have on him. He was also concerned that it was only going to be six (6) feet from the road right-of-way. It was explained that "no," that the house would be 34 feet from the road right-of-way with the building, and that there would only be what's called a six (6) foot variance. Mr. Thorpe and Mr. Alm discussed their involvement with the ordinance and the separation distances, etc. Charlie Fawver, Real Estate Agent, also spoke in favor of the variance. Ralph Noble, Chair of Lansing Township, was asked about the township concerns on the right-of-way. He said the township had no problem with the variance. After some

discussion, a motion was made by Joan Roe, seconded by Gary Braaten to approve the 15 foot side yard and 6 foot front yard variance because: (1) it is in the spirit with intent of the ordinance to utilize a unique shape of property with the Cedar River on the East, the farmland on the North, a Township road on the West. (2) It is in accordance with the Comprehensive Plan because they are going to be upgrading the existing nonconforming sewer system. (3) There are practical difficulty showing because it is not feasible to acquire additional land to the North.

Variance was approved with the following conditions:

1. The ISTS be brought up to current County standards within one (1) year.
2. A discussion will take place with the Lansing Township on the disposition of the trees located on the east side of the right-of-way and on the west side of the Thorpe property and be removed if Lansing Township wants them removed at Mr. Thorpe's expense.

The motion passed unanimously.

**Variance #310 - Brad Lukes** For the additional non-farm dwelling for Brad Lukes. The staff report was presented, references made to the onsite inspection. A motion was made by Gary Braaten and seconded by Joan Roe with approval because (1) it is in the spirit and intent of the Ordinance because we are establishing a farmstead in the area and helping to preserve agricultural. (2) It is in accordance with the Comprehensive Plan because we are developing another agricultural home. (3) Practical difficulties are shown because the other non-farm homes in the Section are non-farms and non-farm homes.

The motion was passed unanimously.

**Well Variance 310A - Brad Lukes.** Variance from Section 6-82 of the Mower County Well Code to allow the petitioner to drill a cased and grouted Galena limestone well in Section 29 of Austin Township. It discussed by Bill Buckley. Minnesota Department of Health letter was presented. After some discussion, a motion made by Gary Braaten, seconded by Joan Roe to approve the well variance because (1) the variance is in harmony with the spirit and intent of the ordinance because by following the standards of the State Health Department it will insure an adequate and safe supply of water, (2) the variance is consistent with the Comprehensive Plan for the reasons stated above; (3) there are practical difficulties and particular hardships shown because going to the St. Peter Sandstone would not insure any better quality or quantity of water. The variance was approved with the following 11 conditions of the Minnesota Department of Health and a 12th condition added that the well must be conformance with Mower County nitrate:

1. The variance is valid only with the written approval of Mower County (County). Approval must be given prior to construction and in accordance with the Mower County Water Well Ordinance (Article VII). All conditions from the granted state approval shall be included within the final variance decree of Mower County.
2. The Galena formation at the well location must be overlain by the Spillville, Maquoketa, and Dubuque formations.
3. The static water level in the completed well must be no lower than the elevation of the top of the Maquoketa formation.

4. The well must be cased and grouted to a minimum depth of 262 feet and at least 20 feet below the static water level in the well. If the gamma-log and geological cutting samples, analyzed by the Minnesota Geological Survey (MGS), indicate that the top of the Galena formation is at a shallower depth than the required minimum depth given in this condition, the well can be cased and grouted to a depth not less than 10 feet into the Galena formation.

5. The well must be constructed in a bore hole which is at least 3.25 inches larger than the outer diameter of the casing. If couplings are used, the bore hole must be at least 3.25 inches larger than the outer diameter of the couplings. The annular space around the casing must be filled with neat cement grout in the rock portion of the well.

6. The well shall be test pumped and the well water sampled prior to grouting. The water sample taken from the well must meet water quality standards for coliform bacteria (less than 1.0 organism/100 milliliter [ml] MF method or less than 2.2 organisms/100 ml MPN method) and nitrate nitrogen (less than 10.0 milligrams/liter [mg/l]). If the water quality in the Galena formation is unsatisfactory, the well must be cased and grouted into an underlying safe aquifer or be sealed in accordance with Minnesota Rules, Chapter 4725.

7. Water from this well will be tested by the Minnesota Department of Health, upon completion of the well for nitrate nitrogen. This sample is in addition to the sample that must be taken, upon completion of the well, by the person constructing the well. The Minnesota Department of Health may sample the well for nitrate-nitrogen at future dates.

8. Representative samples of drill cuttings shall be collected for each 5-foot drilled interval. These samples shall be collected in bags which will be sent to the well contractor under separate cover. The MGS will pick up the bagged drill cuttings.

9. The MGS must be contacted at 612/627-4788 after the bore hole is drilled so that a gamma-log of the well may be obtained. The gamma log and cuttings will be used to determine the depth to the Galena limestone.

10. Mr. Chris De Mattos or Mr. Peter Zimmerman at the MDH (507/285-7289) and the County(507/437-9527) shall be notified at least 24 hours prior to the construction of the well.

11. The well must be constructed in accordance with all other provisions of Minnesota Rules, Chapter 4725.

One additional condition was stated by the Board of Adjustment:

12. The nitrate-nitrogen concentration of the finished well shall be less than 5 mg/l as required by the Board of Adjustment.

The motion was passed unanimously.

**Variance #311 - Tammy & Jason Fredrickson** Variance was for a holding tank as an alternate system. Tammy Fredrickson explained the proposal, Bill Buckley talked about the requirements for holding tank. Mrs. Fredrickson explained that the holding tank was simply a temporary means and they would put in approximately a 2,000 gallon holding tank. They would then add soil and next year install a regular sewer system. Mike Adams, adjoining property owner had some concerns, but after he heard the information, no other comments were made. After some discussion, a motion was made by Joan Roe, seconded by Gary Braaten to approve Variance 311 because (1) the variance is in harmony with the spirit and intent of the ordinance because a holding tank and land application is an acceptable means of

disposal, (2) the variance is consistent with the Comprehensive Plan because alternative systems are acceptable under MPCA and County standards, (3) there are practical difficulties and particular hardships shown because of the high water table in the area with the following conditions:

1. The holding tank shall be constructed the same as a water tight septic tank.
2. A clean-out pipe of at least 6-inches diameter shall extend to the ground surface and be provided with seals to prevent odor and to exclude insects and vermin. A manhole of at least 20 inches in diameter shall extend through the cover to a point within 12 inches but no closer than 6 inches below finished grade. The manhole cover shall be covered with at least 6 inches of earth.
3. The tank shall be protected against floatation.
4. The holding tank will be a minimum of 400 gallons times the number of bedrooms.
5. The holding tank shall be located in an area readily accessible to a pumping truck. The tank shall be pumped as needed by an MPCA licensed sewage tank pumper or the homeowner with appropriate equipment.
6. The holding tank shall be monitored to prevent accidental sewage overflow and a device such as a warning light or bell or other visual technique shall be used to prevent overflow.
7. Septage (sewage) shall be incorporated in the soil following appropriate state and federal guidelines and standards or shall be disposed of at a municipal treatment plant with the appropriate authorization.
8. A garbage disposal or water softener will not be discharged into the holding tank.
9. The tank shall be installed by an MPCA licensed ISTS contractor.
10. A plan stating alternatives to field spreading of sewage must be submitted to the Mower County Environmental Health Department.

The motion passed unanimously.

There being no further business, the meeting adjourned at 4:15 p.m. on a motion by Joan Roe, seconded by Gary Braaten. The motion passed unanimously.

Respectfully submitted:



Daryl W. Franklin